

REMARKS

Applicant has carefully reviewed the Office Action dated February 4, 2005, and notes with appreciation the Examiner's comments therein, as well as the indication of allowable subject matter. In the present application, claims 16-37 are pending. Applicant cancels claims 1-15 and submits new claims 21-37 in their stead. Applicant amends claims 16 and 18, while claims 17, 19, and 20 remain as originally presented. Also, Applicant amends Figure 1a and the corresponding section of the specification to further show the adjuster 19 in accordance with the Examiner's request. As the specification and claims discuss the adjuster as shown, Applicant submits that no new matter has been added. In light of these amendments and the following remarks, Applicant respectfully requests reconsideration of the pending claims.

With regard to the Examiner's substantive rejections, Applicant respectfully submits that claims 16-37 are neither anticipated nor rendered obvious by the patents cited in the Action. Since claims 21-37 relate to a revised form of claims 1-15, Applicant will address the references cited by the Examiner in the order presented in the Action.

U.S. Patent No. 5,803,510 to Daigle teaches a rod and reel caddy 10 including a folding frame structure. The caddy 10 comprises a first and second U-shaped assembly 14, 16 formed from a length of aluminum tubing including first and second central bars 20, 36 and parallel bars 22, 24, 38, and 40. The parallel bars 38, 40 each include an extension bar 42, 44 slidably positioned over an end of the parallel bars. A riveted cross-bar 50 secures the extension bars 42, 44. The extension bars 42, 44 pivotally connect to the parallel bars 22, 24 via pivot pins 49, 51.

The caddy 10 may also include a plurality of rod gripping units 54 secured along a length of a rod gripping bar 52. Additionally, a plurality of rod heel receiving tubes 30 secure along a heel attachment bar 28. Fully rigged fishing rods become placed in the tubes 30 and gripping units 52 for transportation. When the rods are in use, the second U-shaped assembly 16 may be collapsed onto the first U-shaped assembly 14 via pivot pins 49, 51 and secured together via a strap 56.

In stark contrast, Applicant's amended claim 16 requires "a brace defining an *adjustable aperture*" wherein the brace "*includes a fastener* adapted to engage said pedestal [of a seat on a boat]." Additionally, claims 21 and 30 require "a brace defining an *adjustable aperture* and *including a fastener* adapted to engage a structure auxiliary to said fishing accessory apparatus." The brace of Daigle, identified by the Examiner as cross-brace 32 or cross-bar 50, fails to include any type of aperture, much less an adjustable aperture as required by these claims. Daigle's cross-brace 32 or cross-bar 50 provide structural support for the caddy 10. These bars are fixed to Daigle's parallel bars and include no aperture whatsoever. Hence, no structure auxiliary to the fishing accessory apparatus or the pedestal of a boat seat may become inserted into an aperture of the brace. Moreover, Daigle fails to describe any type of fastener adapted to engage an auxiliary structure. Daigle specifically states that the cross-brace 32 or cross-bar 50 are riveted in place to prevent twisting of the parallel bars 22, 24, 42, 44. A riveted fastener is not "adapted to engage a pedestal" or "adapted to engage a structure auxiliary to said fishing accessory apparatus," as required by claims 16, 21 and 30.

Additionally, Claims 21 and 30 require that the "accessory support collapsibly attaches to said base for movement of said accessory support from a collapsed position *to an operational position substantially perpendicular to said base.*" (emphasis added). Daigle only describes a rod and reel caddy where the operational position is 180° from the collapsed position. The caddy of Daigle must be substantially planar in the operational position in order to hold fully-rigged fishing rods, the entire focus of Daigle's invention and patent. Since Daigle fails to teach all of the elements of claims 16, 21, and 30, it fails to anticipate.

Also, Daigle fails to provide any motivation or suggestion for the fishing accessory apparatus of these claims. Any modification to the Examiner identified brace (cross-brace 32 or cross-bar 50) would detrimentally impact the structure of Daigle's caddy, therein allowing undesired twisting of the parallel bars. Moreover, modifying Daigle's invention such that in the operational position the accessory support is substantially perpendicular to the base would render the invention inoperable. Since fishing rods are

substantially linear, an accessory support in an operational position substantially perpendicular to the base would prevent placement of rods on Daigle's caddy or breaking rods already positioned on the caddy. Accordingly, Daigle fails to render claims 16, 21, and 30 obvious.

Next, U.S. Patent No. 5,228,227 to Hodgson, Sr. discloses an ice fishing apparatus having a one-piece planar base 12, a support member 18, and a vertical member 30. A plurality of t-shaped couplers 22, positioned atop the planar base 12, receive the support member 18 and vertical member 30. The couplers 22 include fixed apertures and grooves 26, 26a molded into an inside surface of the coupler 22 for retaining the support member 18 and vertical member 30. A single fishing rod receptacle 28 attaches to a crossbar 33, such that a shaft of a fishing rod may become angled downward toward an opening 14 of the base 12. The base 12 may also include a handle 58 for carrying the ice fishing apparatus.

Applicant's claim 16 requires "a base including first and second generally opposed members, and at least one transverse member." Hodgson only describes *a one-piece planar base* that fails to include "first and second generally opposed members" and "at least one transverse member." Moreover, claim 16 recites a "base defining a plane and including a brace positioned in said plane." This claim also requires a brace "defining an adjustable aperture...wherein said brace includes a fastener adapted to engage said pedestal [of a seat on a boat]." The Examiner identified brace (handle 58 or opening 14) both constitute *fixed* apertures that fail to include any form of fastener adapted to engage the pedestal of a seat on a boat. The Hodgson couplers 22 are positioned atop the base 12, outside the plane defined by the base. Also, these couplers define *fixed* apertures and fail to include a fastener adapted to engage a pedestal of a seat on a boat, as required by claim 16. Accordingly, they further fail to constitute the brace of claim 16. Hence, Hodgson fails to anticipate the fishing apparatus of claim 16.

Additionally, there is no motivation or suggestion to modify this reference to include these limitations. Hodgson specifically teaches an ice fishing apparatus having an opening 14 corresponding to a hole drilled in ice. Since one does not utilize a boat when ice

fishing, they would not be motivated to modify Hodgson's ice fishing apparatus to include a brace adapted for securing a base around the pedestal of a seat on a boat. Accordingly, Hodgson fails to render claim 16 obvious.

Similarly, Hodgson does not anticipate independent claims 21 and 30. Claim 21 requires "a brace defining an *adjustable aperture* and including a *fastener* adapted to engage a structure auxiliary to said fishing accessory apparatus that becomes positioned within said aperture" and a brace "positioned substantially co-planar with a plane defined by said base." Claim 30 requires "a brace defining an *adjustable aperture* and including a *fastener* adapted to engage a structure auxiliary to said fishing accessory apparatus that becomes positioned within said aperture," wherein said brace is positioned within a perimeter defined by the base. As discussed above, Hodgson fails to teach or provide any motivation for a fishing apparatus with a brace having an adjustable aperture and a fastener, as required by claims 21 and 30. Also, as discussed above, Hodson's couplers 22 are positioned atop the base 12, outside the plane defined by the base. Accordingly, they further fail to constitute the brace as required by claim 21.

Claims 21 and 30 also require "a plurality of accessory stations positioned on an accessory support" not shown in Hodgson. Hodgson only describes a single fishing rod receptacle 28 attached to a crossbar 33. Hodgson's invention relates to an ice fishing apparatus wherein a fisherman uses an auger to drill a plurality of holes through a layer of ice on the top of a lake or pond. The fisherman then uses a single rod on a single rod receptacle at each hole. Hodgson illustrates this in Figure 5 of the '227 patent. If a fisherman were to utilize "a plurality of accessory stations positioned on an accessory support," as required by Applicant's claims 21 and 30, the additional accessory stations would interfere with the single fishing rod receptacle ice fishing configuration. Since ice fishing involves one fishing rod per fishing hole, Hodgson does not provide a suggestion for a plurality of accessory stations and one would not be motivated to modify Hodgson's ice fishing apparatus to include a plurality of accessory stations. Accordingly, claims 21 and 30 are neither anticipated nor rendered obvious.

U.S. Patent No. 2,973,929 to Zawadzki describes a fishing rod holder including a frame 10 having a pair of legs 12, 14 arranged in a lateral spaced relation. The frame 10 also has a bar member 16 connecting one of the adjacent ends of the legs 12, 14 together. An upright 18, positioned adjacent the midportion of the bar member 16, connects to the bar member for movement from an upright position to a "lay-down" position within the frame 10. A flat strip 20 positioned at an end of the upright 18 includes ring members 22. The frame 10 also includes an upstanding support 26 including vertically disposed arms 28, 30.

An inverted "U-shaped" member 32 engages upper end portions of the arms 28, 30. This member 32 includes rest means in the form of saddles 52 provided in the bight 38 of the member 32. The bar member 16 of the frame 10 also includes a loop 54 which serves as a finger grip means for carrying the holder after the upright 18 and support 26 have been moved to the lay-down position within the frame 10. In use, the ring members 22 receive the butt end of a fishing rod, while the shaft of the rod rests on the saddles 52. The holder also includes spike elements 46, 48 projecting from the frame for driving into a ground surface when the frame 10 becomes positioned upon a ground surface.

Zawadzki fails to disclose a fishing accessory apparatus with a "brace defining an *adjustable aperture* adapted for securing said base around a pedestal of a seat on said boat, wherein said brace includes a *fastener* adapted to engage said pedestal," as recited in claim 16. The finger grip in the form of a loop 54 that the Examiner identifies as a brace fails to include any form of fastener adapted to engage a pedestal of a seat on a boat. To the extent the wing nut at the base of the upright 18 could arguably constitute a fastener, Zawadzki does not show this wing nut in association with the Examiner identified brace 54. Moreover, this wing nut is not a fastener adapted to engage the pedestal of a seat on a boat, as required by claim 16. Although Zawadzki fails to provide any motivation to insert an auxiliary structure into the loop 54, as discussed below, if one placed an auxiliary structure in the loop 54, in this case the pedestal of a seat on a boat, the wing nut at the base of the upright 18 would never engage the auxiliary structure. As shown in Figures 1 and 2, Zawadzki clearly shows the loop offset from the wing nut and base of the upright 18.

Zawadzki requires this offset so that the upright 18 may become positioned in the “lay-down” position and the loop 54 may serve as the finger grip means. *See* Col. 2, ll. 51-55. If the loop 54 were not offset, a portion of the upright 18 would engage the loop 54 and prevent the loop 54 from properly functioning as a finger grip. Accordingly, Zawadzki fails to anticipate claim 16.

Zawadzki also fails to render claim 16 obvious. As shown in the Figures 1-4, Zawadzki describes a fishing rod holder wherein the handle of the rod projects through ring members 22. Placing the pedestal of a seat of a boat in the opening 54 would eliminate the ability for a fishing rod to become placed in the ring members 22, especially if a boat seat became associated with the boat seat pedestal. Accordingly, one would not be motivated to modify Zawadzki to have a brace including a fastener adapted to engage a pedestal of a seat of a boat, as required by claim 16.

Also, as previously mentioned, in col. 2, ll. 51-55, Zawadzki describes that the finger grip means in the form of the loop 54 functions for carrying the holder. One would not be motivated to modify this loop 54 to include a fastener, as required by claim 16, because it would defeat the purpose of the loop 54. A fastener in the loop 54 would render Zawadzki’s invention difficult and uncomfortable to carry because the fastener would project into the user’s finger or hand. Since Zawadzki fails to disclose the fishing accessory apparatus of claim 16, and modifying Zawadzki would render it inoperative, Applicant submits the patentability of claim 16.

Turning to claims 21 and 30, these claims recite, “a brace defining an *adjustable aperture* and including a *fastener* adapted to engage a structure auxiliary to said fishing accessory apparatus that becomes positioned within said aperture.” The Examiner identified brace (loop 54) constitutes a fixed aperture. Zawadzki provides no structure or provision for adjusting the aperture formed by the loop 54, as required by claims 21 and 30. Also, as discussed above, Zawadzki fails to include any form of fastener adapted to engage a structure auxiliary to the fishing accessory apparatus that becomes positioned within the aperture. The upright 18 constitutes a critical component of Zawadzki’s fishing rod holder because it

includes the ring members 22 that receive the handle of the fishing rod. Hence, this structure does not constitute a structure auxiliary to the fishing accessory apparatus. Since Zawadzki fails to describe a brace having an adjustable aperture and a fastener adapted to engage a structure auxiliary to the fishing support, it fails to anticipate claims 21 and 30.

Similar to claim 16, Zawadzki also does not render claims 21 and 30 obvious. As discussed above, Zawadzki simply provides no teaching or motivation for a brace defining an adjustable aperture and including a fastener adapted to engage a structure auxiliary to the fishing support that becomes positioned within the aperture. Rather, Zawadzki describes a stand-alone fishing rod holder that includes spike elements 46, 48 for insertion into a ground surface. Furthermore, with specific reference to claim 30, Zawadzki shows absolutely no structure within the perimeter of the Examiner identified base (12, 14). In Col. 1, ll. 36-40, Zawadzki states, “[a]n object of the present invention is to provide a fishing rod holder which is readily extended from the nested or compact condition to the operative position and as readily collapsed from the operative position to the nested position.” Moreover, in Col. 2, ll. 52-54, Zawadzki describes that the upright 18 and support 26 may become moved “to the lay-down position nested *within* the frame 10.” (emphasis added). Zawadzki specifically requires the interior of the perimeter defined by the base be free of any structure so that the upright and support may become placed in the nested position *within* the frame (or Examiner identified base 12,14). Any structure positioned in the interior of the perimeter defined by the base would prevent the upright from becoming nested within the frame, therein defeating one of the objects of Zawadzki’s invention. Since Zawadzki teaches against any structure, such as a brace, positioned within the base, there is no motivation or suggestion for modifying this reference to include a brace positioned “within said perimeter” defined by the base, as required by claim 30.

U.S. Patent No. 4,964,233 to Benson et al. describes a fishing rod/reel holder and signaling device 10. The device 10 includes a support frame 11 having a triangular base 12 with a vertically ascending support element 13. The support element 13 includes a removably secured, horizontally disposed mounting bar 14 spaced apart from the triangular

base 14. A pair of fishing rod and reel holders 15, in the form of a tube having a closure 18, secure to the ends of the mounting bar 14. A pair of signaling devices 20 hingedly attach to the mounting bar 14 for indicating when a fish “strikes” the fishing line/lure.

Again, Applicant’s claim 16 recites a “base defining a plane and including a brace positioned in said plane.” This claim also requires a brace “defining an *adjustable aperture*...wherein said brace includes a *fastener* adapted to engage said pedestal [of a seat on a boat].” Claims 21 and 30 require “a brace defining an adjustable aperture and including a fastener adapted to engage a structure auxiliary to said fishing accessory apparatus that becomes positioned within said aperture.” Additionally, claim 21 recites that the brace is “positioned substantially co-planar with a plane defined by said base,” while claim 30 requires that the brace is positioned “within said perimeter” defined by the base.

The Examiner identified brace (bottom of base 12), fails to include an *adjustable aperture* having any form of *fastener* adapted to engage a structure auxiliary to the fishing accessory apparatus. The bottom of the triangular base 12 defines a fixed aperture, as opposed to the *adjustable aperture* of Applicant’s claim 16. This Examiner identified brace of Benson does not include any form of “fastener adapted to engage a structure auxiliary to the fishing accessory apparatus.” Moreover, Benson does not disclose a fishing accessory apparatus wherein the accessory support attaches to the base via at least one hinge for movement from a collapsed position to an operational position, as required by claim 16. Benson also does not teach that the “accessory support collapsibly attaches to said base for movement of said accessory support from a collapsed position to an operational position substantially perpendicular to said base,” as required by claims 21 and 30. Benson only teaches a vertically extending support element 11 fixedly attached to the base 12. Accordingly, Benson fails to teach or provide any motivation for the fishing apparatus of Applicant’s claims 16, 21, and 30.

U.S. Patent No. 4,523,403 to Ivy et al. discloses a fishing frame 10 formed from a U-shaped member 11 pivotally connected to a base 13. The frame 10 includes a pair of folding diagonal braces 14, 15 adapted for maintaining the U-shaped member 11 at an angle

less than 90° with respect to the base. The frame 10 includes an angle iron piece 16 fixed to the base 13. This angle iron piece 16 stabilizes the frame 10 and includes a plurality of holes 19-21 forming receptacles for the handles 22, 23 of fishing rods 24, 25. A bar 27 hingedly attaches to a transverse portion 26 of the frame member 11. The bar 27 includes locating notches 29-31 for laterally positioning the fishing rods 24,25. The bar also includes a plurality of brackets 32-34 carrying switches in electronic communication with a bell for indicating a bite from a fish.

Ivy fails to disclose a fishing accessory apparatus with a “brace defining an *adjustable aperture* adapted for securing said base around a pedestal of a seat on said boat, wherein said brace includes a *fastener* adapted to engage said pedestal,” as recited in claim 16. The opening 54 shown in Fig. 2 of Ivy’s ‘403 patent does not include any form of fastener adapted to engage a pedestal of a seat on a boat. Moreover, Ivy only shows a fixed opening 54, as opposed to the adjustable aperture of Applicant’s claim. Accordingly, Ivy fails to anticipate claim 16.

Ivy also fails to render this claim obvious. In col. 2, ll. 65-69 Ivy states, “[i]f desired, an opening as shown at 54 in the horizontal leg of the member 16 can be provided for receiving a stake to anchor the unit in the erect position shown in Figure 1.” Modifying the opening 54 to include a fastener for receiving the pedestal of a seat of a boat, as required by Applicant’s claim 16, would render Ivy’s invention useless. As shown in Figures 1 and 2 of the ‘403 patent, the opening 54 resides directly adjacent the opening 20 that receives the handle of a fishing rod. Placing the pedestal of a seat of a boat in the opening 54 would eliminate the ability for a fishing rod to become placed in the opening 20. If a boat seat became associated with the boat seat pedestal, it would eliminate the ability to place any rods on Ivy’s device. Since Ivy provides no motivation or suggestion for a brace having a fastener adapted to engage, and modifying Ivy would render it inoperative, it fails to render claim 16 obvious.

Similarly, Ivy fails to anticipate or render claims 21 and 30 obvious. These claims require, “a brace defining an adjustable aperture and including a fastener adapted to engage

a structure auxiliary to said fishing accessory apparatus that becomes positioned within said aperture.” As discussed above, Ivy fails to teach or provide any motivation for a fishing accessory apparatus having a brace with a fastener. Moreover, claims 21 and 30 require that an “accessory support collapsibly attaches to said base for movement of said accessory support from a collapsed position to an *operational position substantially perpendicular* to said base.” As shown in Fig. 1 and discussed in col. 2, ll. 24-30, Ivy requires that the fishing rods lean against actuators mounted on the beam 26. Positioning Ivy’s member 11 perpendicular to the base 13 would result in the fishing rods falling backwards, thus not leaning against the actuators mounted on the beam 26, as required. Accordingly, Ivy fails to anticipate or render claims 21 and 30 obvious.

U.S. Patent No. 4,479,322 to Koppel describes a fishing rod holder 1 having a flat, horizontally oriented base 5 for use as a bait preparation area. Two skid members 6 attach to the underside of the base and elevate the bottom of the base slightly off the ground. The base 5 also includes a rear member 11 having one or more slots 12 for retaining the handle portion 3 of a fishing rod 2. A pair of upstanding members 15 hingedly attach to the base 5 and include a crossbrace 14 interconnecting the members 15. The hinged attachment enables the crossbrace 14 to move from a closed position to an open position when fishing. The crossbrace 14 includes a plurality of notched grooves corresponding to the number of slots 12 positioned in the rear member 11. The holder 1 also includes a handle 10 for carrying the holder 1 when in the closed position. In use, an individual raises the crossbrace 14 to an open position and places the handle portion 3 of the fishing rod 2 into the slot 12. In this configuration, the staff portion 4 of the fishing rod 2 leans against the crossbrace 14 and engages the grooves 13.

Similar to the other references cited, Koppel fails to show a “base defining a plane and including a brace positioned in said plane,” the brace “defining an adjustable aperture...wherein said brace includes a fastener adapted to engage said pedestal [of a seat on said boat],” as required by claim 16. The Examiner identified brace (handle 10) does not include an adjustable aperture nor a fastener adapted to engage the pedestal of a seat on a

boat. Rather, it only shows a handle forming a fixed aperture. It then follows that Koppel does not disclose “a brace defining an *adjustable aperture* and including a *fastener adapted to engage a structure auxiliary to said fishing accessory apparatus* that becomes positioned within said aperture,” as required by claims 21 and 30. Accordingly, Koppel does not anticipate Applicant’s claims 16, 21, or 30. Moreover, Koppel fails to render these claims obvious. Koppel provides no motivation for a brace or bracket having an adjustable aperture and a fastener. Assuming arguendo that one attempted to replace the handle 10 with a brace or bracket having a fastener adapted to engage a structure auxiliary to the fishing rod holder, this would defeat one of the purposes of Koppel’s invention—a rod holder easily transported by gripping the handle 10. Providing a fastener in the handle 10 would render Koppel’s invention difficult and uncomfortable to carry because the fastener would interfere with the user’s hand. Coupling this with the weight of Koppel’s invention would result in the handle 10 not functioning as desired. Accordingly, Koppel provides no motivation for a fishing apparatus of Applicant’s claims 16, 21, and 30.

In summary, Applicant has addressed all issues raised in the Office Action. Specifically, Applicant amends independent claim 16 and submits new independent claims 21 and 30, as well as arguments showing that the patents cited in the Action fail to anticipate the claimed inventions or render them obvious. By their dependency on allowable claims 16, 21, and 30, Applicant respectfully submits the patentability of claims 17-20, 22-29, and 30-37. Accordingly, Applicant believes that all claims are now in condition for allowance and solicits a notice to this effect. If any matters require further attention, please contact the Applicant’s attorney at the telephone number listed below. The Applicant authorizes deduction of any necessary fees from Deposit Account No. 11-0978 to advance the prosecution of this matter.

S.N. 10/715,676

Respectfully submitted,

KING & SCHICKLI, PLLC



Brett G. Corbly
Reg. No. 56,522

247 North Broadway
Lexington, KY 40507
(859) 252-0889
(859) 252-0779

CERTIFICATE OF MAILING

I hereby certify that this correspondence
is being deposited with the United States Postal
Service as First Class Mail
addressed to: Mail Stop Amendment,
Commissioner for Patents, P.O. Box 1450
Alexandria, VA 22313-1450 on May 3 2005

5-3-2005 Carolina Perdomo

S.N. 10/715,676

Amendments to the Drawings:

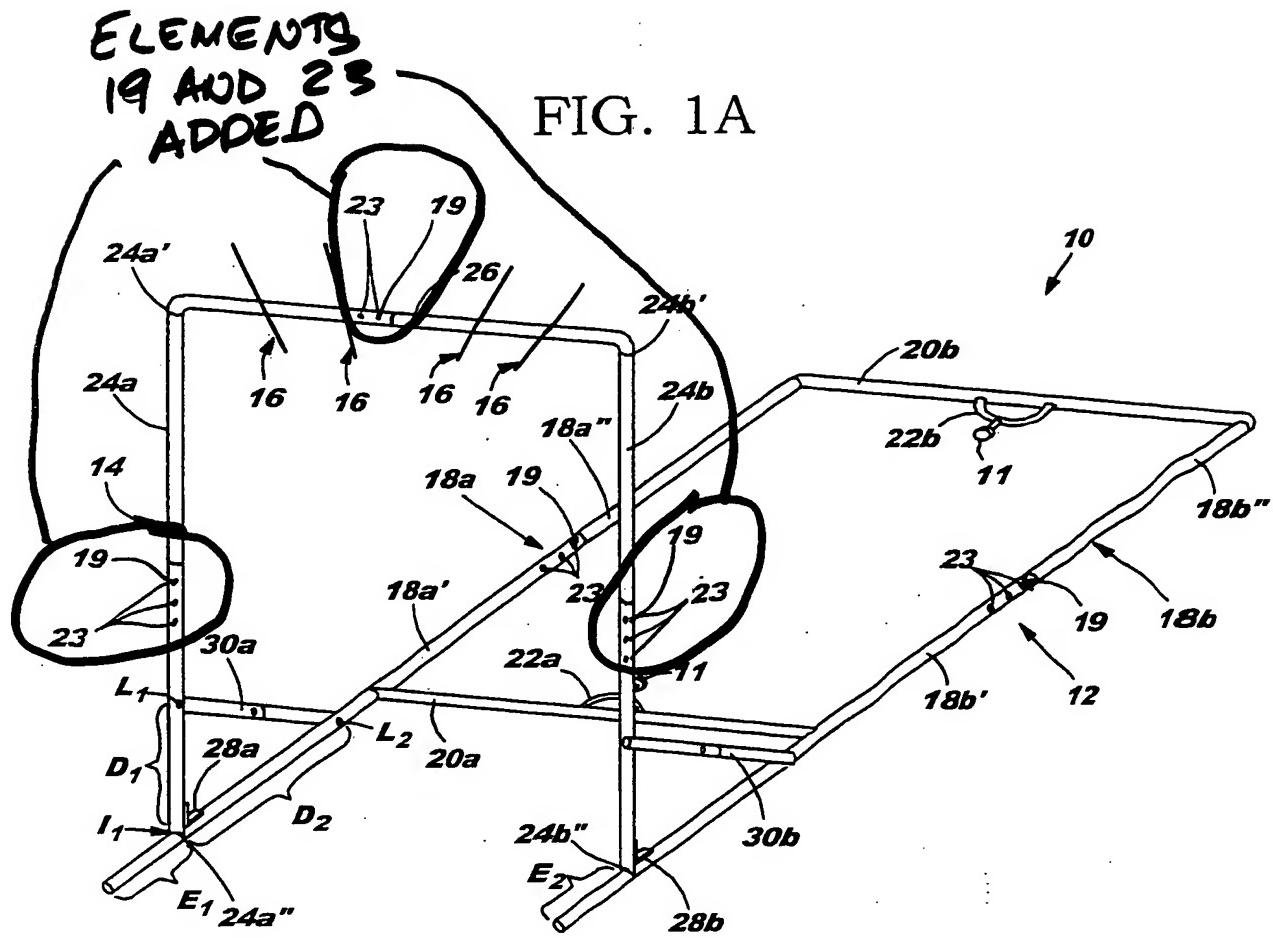
The attached sheet of drawings include changes to Fig. 1a. This sheet replaces the original sheet containing Fig. 1a. In Fig. 1a, previously omitted elements 19 and 23 have been added to the first and second supports 24a, 24b and transverse support 26.

Attachment: 1 Replacement Sheet

1 Annotated Sheet Showing Changes

App. Ser. No. 10/715,676
Reply to Office Action of February 4, 2005
Atty. Docket No. 1265-001

Annotated Sheet Showing Changes



**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- BLACK BORDERS**
- IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- FADED TEXT OR DRAWING**
- BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- SKEWED/SLANTED IMAGES**
- COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- GRAY SCALE DOCUMENTS**
- LINES OR MARKS ON ORIGINAL DOCUMENT**
- REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- OTHER:** _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.